

BoxInterferences@uspto.gov
Telephone: 571-272-4683

Paper 1
DECLARED 9 December 2008

UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,669 (RT)
(From Technology Center 1600)

GENVEC, INC.
(US 7,214,368),
Junior Party,

v.

DANA-FARBER CANCER INSTITUTE
(08/289,290),
Senior Party.

DECLARATION - BD.R. 203¹

By RICHARD TORCZON, *Administrative Patent Judge*.

A. DECLARATION OF INTERFERENCE

An interference is declared pursuant to 35 U.S.C. 135(a). Details of the application, patent, count, and claims designated as corresponding to the count appear under headings E and F.

¹ "Bd.R. x" may be used to abbreviate "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

B. DESIGNATION TO MANAGE

Administrative Patent Judge Richard Torczon has been designated to manage the interference. Bd. R. 104(a).

C. STANDING ORDER

A copy of the Standing Order (SO, Paper 2) accompanies this declaration. The Standing Order applies to this contested case.

D. CONFERENCE CALL TO SET DATES

A telephone conference call to set dates for action in this contested case is scheduled for **2 p.m. (Eastern)** on **5 February 2009**. (The Board will initiate the call.)

No later than **3 February 2009**, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the Standing Order. The parties are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. A party requesting more or less time should be prepared to justify the request.

E. THE PARTIES TO THIS INTERFERENCE

Junior Party

Patent: US 7,214,368, granted 8 May 2007

Title: Therapeutic regimen for treating cancer comprising the administration of adenoviral vectors comprising a TNF- α transgene

Inventors: Henrik S. Rasmussen of Arnold, Maryland, and Karen W. Chu of New York City, New York

Senior Party

Application: 08/289,290, filed 11 August 1994

Title: Constitutive gene expression in conjunction with ionizing radiation

Inventors: Ralph H. Weichselbaum of Chicago and Dennis E. Hallahan of Park Ridge, both of Illinois, and Donald W. Kufe of Wellesley and Vikas P. Sukhatme of Newton Centre, both of Massachusetts

F. COUNTS AND CLAIMS OF THE PARTIES

Count 1

A method of US 7,214,368 claim 1.

The claims of the parties are:

GenVec: 1-16

DFCI: 1-3, 6, 8-14, 18-28, 31-36, and 38-42

The claims corresponding to Count 1:

GenVec: All

DFCI: All

The benefit accorded for Count 1:

GenVec: 10/151,633, filed 17 May 2002

10/001,017, filed 2 November 2001

DFCI: 08/289,290, filed 11 August 1994

G. HEADING TO BE USED ON PAPERS;
EXHIBIT NUMBERS

Addendum 1 provides the heading that shall be used on all papers filed in the contested case. See SO ¶ 106.1.1.

The range of exhibit numbers is assigned as follows (Bd.R. 154(c)(1); SO ¶ 154.2.1):

Dana-Farber Cancer Institute: 1001-1999.

GenVec, Inc.: 2001-2999.

H. ORDER FORM FOR REQUESTING FILE COPIES

When requesting copies of files, use of Addendum 2 (SO Form 4) will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

Attachment: None.²

Enclosure: Copy of Standing Order (Paper 2)

cc:

Melissa E. Kolom, Leydig Voit & Mayer, Ltd., of Chicago, Illinois

Wendy M. Seffrood, Michael Best & Friedrich LLP, of Madison, Wisconsin

² For a United States patent or published application listed in this paper, see <http://patft.uspto.gov/>; see also <http://portal.uspto.gov/external/portal/pair> for prosecution histories available to the public.

ADDENDUM 1: PAPER HEADING

Filed on behalf of: [Name of Party] Paper No. [Leave blank]

By: [Name of lead counsel]
Name of backup counsel
Street address
City, State, and ZIP Code
Tel:
Fax:

]

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TITLE OF PAPER

ADDENDUM 2: FILE COPY REQUEST
Patent Interference No. 105,669

Attach a copy of sections E and F of this declaration to this request.

On the copy, circle each patent and application that you are requesting.

Include the information indicated below to facilitate processing of this request.

Charge fees to:

1. USPTO Deposit Account No. _____

2. Complete delivery address, including street, city, state, ZIP code:

3. Telephone, including area code: _____

